UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF OHIO

ANTOINE WINN, : CASE NO. 1:15 CV 2143

Plaintiff,

vs. : ORDER GRANTING MOTION

: TO REOPEN TIME TO APPEAL

SHERIFF FRANK BOVA, et al.,

Defendants.

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On January 25, 2016, this Court issued an order denying plaintiff's application to proceed *in forma pauperis* and entered a corresponding judgment entry dismissing the plaintiff's action without prejudice. On April 6, 2016, the plaintiff filed a motion to reopen the time to file an appeal in the case pursuant to Federal Rule of Appellate Procedure 4(a)(6). (Doc. No. 7.) He contends he did not receive notice of the Court's order dismissing his case until March 4, 2016 due to his transfer to the Richland Correctional Institution, and that he placed a copy of his motion to reopen the time to appeal in the prison mailbox on March 11, 2016.

Federal Rule of Appellate Procedure 4(a)(6) provides that a district court may reopen the time to file an appeal for a period of fourteen days after the date when its order to reopen is entered only if all of the following conditions are satisfied: (A) the court finds the moving party did not receive notice under Federal Rule of Civil Procedure 77(d) of the entry of the judgment or order sought to be appealed within 21 days after entry; (B) the motion to reopen is filed within 180 days after the judgment or order is entered or within 14 days after the moving party receives notice of the entry, whichever is earlier; and (C) the court finds that no party would be

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prejudiced. Fed. R. App. P. 4(a)(6).

The Court has no reason to dispute the plaintiff's contentions regarding his receipt of the Court's order dismissing his case and his mailing of his pending motion.¹ Accordingly, the Court finds the plaintiff satisfies the requirements for reopening the time to appeal under Fed. R. App. P. 4(a)(6), and his motion pursuant to the Rule is therefore granted.

IT IS SO ORDERED.

Dated: April 28, 2016 <u>s/ James S. Gwin</u>

JAMES S. GWIN UNITED STATES DISTRICT JUDGE

¹The Court is willing to consider the plaintiff's motion to have been filed on March 11, 2016 under the prison mailbox rule. *See Houston v. Lack*, 487 U.S. 266 (1988).